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VIA FACSIMILE

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The American Petroleum Institute (API) is pleased to provide comments on the January 6, 2004 Federal Register notice on the Temporary Interim Rule (TIR) on Deepwater Ports. The American Petroleum Institute is a national trade organization representing over 400 member companies involved in all aspects of the oil and natural gas industry including exploration, production, refining, marketing, distribution and marine activities. Many of API's members have a direct interest in operation of deepwater ports.

Our detailed comments are attached in table form for your consideration. If you have any questions or would like to discuss these further, we would be happy to meet with you.

Thank you,

A handwritten signature in cursive script, appearing to read 'J. Sampson', is located below the 'Thank you,' text.

Attachments

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<p>33 CFR 148.3</p> <p>Affiliate means each person:</p> <p>(1) Having any direct or indirect ownership interest in the applicant of greater than three percent;</p> <p>(2) With whom the applicant has made, or proposes to make, a significant contract for financing, managing or otherwise participating in the construction or operation of the deepwater port proposed to be licensed;</p> <p>(3) Who owns or controls any person who is an affiliate by operation of paragraphs (a) or (b) of this definition, or who owns or controls the applicant;</p> <p>(4) Owned or controlled by or under common ownership or control with an applicant or any person who is an affiliate by operation of paragraphs (a), (b) or (c) of this definition; or</p> <p>(5) Who is determined by the Secretary to have information required to review or process the</p>	<p>148.5</p> <p>As used in this subchapter: ...</p> <p><i>Affiliate</i> means a "person";</p> <p>(1) That has an ownership interest, direct or indirect, of more than 3 percent in an "applicant";</p> <p>(2) That offers to finance, manage, construct, or operate the "applicant's" "deepwater port" to any significant degree;</p> <p>(3) That owns or "controls" an "applicant" or an entity under paragraphs (1) or (2) of this definition; or</p> <p>(4) That is owned or "controlled" by, or under common ownership with, an "applicant" or an entity under paragraphs (1), (2) or (3) of this definition.</p>	<p>148.5</p> <p>As used in this subchapter:</p> <p><i>Affiliate</i> means a "person";</p> <p>(1) That has a direct ownership interest of more than 3 percent in an "applicant";</p> <p>(2) That offers to finance, manage, construct, or operate the "applicant's" "deepwater port" to any significant degree;</p>	<p>The definition of "affiliate" should be narrowed by deleting "or indirect" in 148.5(1) and by eliminating 148.5 (3) &amp; (4) which contain concepts of ownership and control. The reason for the requested narrowing is that as drafted the definition picks up every affiliate and the 3% in 148.5(1) becomes irrelevant. The idea was to limit the overall number of affiliates for whom information has to be filed, but the TIR definition does not accomplish that goal.</p>

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application.			
	<p>148.105(a)(5) A statement on the applicant's and each affiliate's history for the last 5 years, including:</p> <ul style="list-style-type: none"> <li>...</li> <li>(ii) Any violations of State or Federal laws; and</li> <li>(iii) Outstanding litigation that relates to, or could materially affect, information in the license application; ...</li> </ul>	<p>148.105(a)(5) A statement on the applicant's and each affiliate's history for the last 5 years, including:</p> <ul style="list-style-type: none"> <li>...</li> <li>(ii) Any violations of state or federal laws that, in any material way, affect applicant's ability to own, construct or operate the proposed Deepwater port; and</li> <li>(iii) Outstanding litigation that, in any material way, either relates to, or could affect, information in the license application; ...</li> </ul>	<p>There should be some test of materiality related to these subjects.</p>
<p>33 CFR 148.109(e)(1). (1) For each applicant and affiliate:</p>	<p>148.105(g)(1). For the applicant and each affiliate with an ownership interest in the applicant of greater than 3 percent, and affiliates with a direct contractual relationship with the deepwater port:</p>	<p>148.105(g)(1). For the applicant and each affiliate with a direct ownership interest in the applicant of greater than 3 percent, and affiliates with a direct contractual relationship with the deepwater port:</p>	<p>Should be clarified by adding the word "direct".</p>
<p>33 CFR 148 – Appendix A: III.B.3.a. The proposed project should adhere closely to approved master plans or other plans of competent local or State authorities in designated adjacent coastal States or in other States where significant effects</p>	<p>148.730(a). Accord with existing and planned management of the coastal region, for which purpose the proposal must be accompanied by a consistency determination from the appropriate state agencies;</p>	<p>148.730(a). Accord with existing and planned land use, including management of the coastal region, for which purpose the proposal must be accompanied by a consistency determination from the appropriate state agencies for the designated adjacent coastal State(s);</p>	<p>Add for the designated adjacent coastal State(s). It is not clear that the adjacent coastal states as defined in 148.217 are the only states for which this section applies.</p>

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are likely to occur. A minimum of special exemptions or zoning variances should be required. Non-conforming uses should not be prolonged where reasonable alternatives are available.			
33 CFR 148 - Appendix A: III.B.3.b. The proposed project should conform with approved or planned coastal zone management programs of the relevant adjacent coastal states.	148.730(b). Adhere to proposed local and State master plans;	148.730(b). Adhere to proposed local and State master plans for the designated adjacent coastal State(s);	Add for the designated adjacent coastal State(s). It is not clear that the adjacent coastal states as defined in 148.217 are the only states for which this section applies.
<i>Not in current regulation.</i>	148.737(a) Greening the Government Through Leadership in Environmental Management, E.O. 13148, 65 FR 24595;	Delete.	It is not clear in what way this Executive Order is applicable to Deepwater Ports. Recommend delete.
<i>Not in current regulation.</i>	148.737(a) Greening the Government Through Waste Prevention, Recycling, and Federal Acquisition, E.O. 13101, 63 FR 49643;	Delete.	It is not clear in what way this Executive Order is applicable to Deepwater Ports. Recommend delete.
<i>Not in current regulation.</i>	148.737(a) Requiring Agencies to Purchase Energy Efficient Computer Equipment, E.O. 12845, 58 FR 21887;	Delete.	It is not clear in what way this Executive Order is applicable to Deepwater Ports. Recommend delete.
33 CFR 149.521(a). Each PPC must have enough lifeboats or inflatable life rafts, or a combination of both, for 200 % of the maximum number of personnel to be	149.304(a)(2). For a deepwater port with 31 or more persons onboard: (i) At least two lifeboats with a total capacity of 100 percent of the personnel onboard; (ii) One or more life rafts with a total capacity so that, if the survival craft at any one location	149.304(a)(2). For a deepwater port with 31 or more persons onboard: (i) At least two lifeboats with a total capacity of 100 percent of the personnel onboard;	The current wording of this citation would require either 150% total lifeboat, or 200% total lifeboat, depending upon where the lifeboat are located. However, 149.305 requires that when temporary personnel are on board, the total

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quartered or employed on the PPC, except that each PPC must have at least two lifeboats. The Commandant may reduce this requirement to a minimum of 150% under 148.607 when it can be shown that the specific arrangements and separation of equipment provides sufficient redundancy.	(iii) are rendered unusable, there will be craft remaining with 100 percent capacity; and One rescue boat.	(ii) Two or more liferafts with a total capacity of 100 percent of the personnel onboard; (iii) Survival craft shall be located so that if the craft at any one location are rendered unusable, there will be survival craft remaining with at least 100 percent capacity of the personnel onboard; and (iv) One rescue boat.	capacity of the survival craft is not less than 200 percent of the personnel on board at any time. Thus, these citations are inconsistent.  Also note that reference to liferafts removed from this temporary interim rule because CG finds them unsuitable in terms of seaworthiness and personnel protection from the elements to operate in an exposed offshore environment.
33 CFR 149.467 Fire hose rack.  (a) Each PPC must have a hose rack at each hydrant. (b) Each fire hose rack must be visible. (c) Each fire hose rack in an exposed location must be protected from weather.	<b>149.418 What are the requirements for fire hoses and fire nozzles?</b>  (a) Fire hoses must comply with <u>46 CFR 108.425</u> and be: (1) Prominently marked in accordance with <u>46 CFR 97.37-15</u> ; and (2) If in an exposed location, protected from freezing weather. (b) Each fire hose and nozzle must comply with <u>46 CFR 108.425</u> or a national consensus standard, as that term is defined in 29 CFR 1910.2, for such hose and nozzle and the standards set by a nationally recognized testing laboratory, as that term is defined in 29 CFR 1910.7, for such hose.	Combine 415 with 418 to allow hoses and nozzles to comply with either 108.425 OR a national consensus s/d.	In para. (a) may have conflict if under 149.415 you choose to design per national consensus standard (NCS) instead of 46 CFR 108.415 thru 429  Also, para (a) says hoses have to comply with 108.425 while para (b) says either 108.425 or NCS
New	<b>Sec. 149.419 What are the requirements for a dry chemical fire-suppression system?</b> Each natural gas deepwater port must be equipped with a dry chemical system that meets the requirements of Sec. <u>127.609</u> to this chapter.	Need to add sentence to end of section: Each natural gas deepwater port must be equipped with a dry chemical system that meets the requirements of Sec. <u>127.609</u> to	Adds Dry chemical fire fighting system for LNG port. Hose reel required, but hose will not meet UL19 as required in 149.418(a)

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<p><u>33 CFR 149.205</u></p>	<p><b>149.625 What are the design standards?</b></p> <p>(a) Each component, except for hoses, mooring lines, and aids to navigation buoys, must be designed to withstand at least the combined wind, wave, and current forces of the most severe storm that can be expected to occur at the deepwater port in any 100-year period. Component design must be appropriate for the protection of human life on the port or on vessels calling on or servicing the port from death or serious injury, and to protect the environment.</p> <p>(b) Heliports on floating deepwater ports must be designed in compliance with the regulations at 46 CFR part 108.</p>	<p>this chapter. The hose and nozzle for this system need <b>not</b> meet the requirements in 149.418</p> <p>(a)..Component design....must comply with a national consensus standard which has applicability to offshore use.</p>	<p>General criteria which will allow operator to use any design criteria for any system. SFP, fire main designs are still specified within Sub NN. This could be a major problem for CG review and inspection since CG may be unfamiliar with the design standard used by the operator. Recommend providing some sort of design options for systems like API, 46 CFR Subchapters F and J, NEC, etc.</p>
<p><u>33 CFR 101(a), (b)</u> Sec. 143.101 Means of escape.</p> <p>(a) "Primary means of escape" shall be fixed stairways or fixed ladders of metal construction.</p> <p>(b) "Secondary means of escape" shall be types approved for "primary means of escape" or portable, flexible ladders, knotted man</p>	<p><b>149.691 What means of escape are required?</b></p> <p>(a) Each deepwater port must have the primary and secondary means of escape complying with <u>46 CFR 108.151</u> for use in evacuating the port.</p> <p>(b) A primary means of escape consists of a fixed stairway, or a fixed ladder, constructed of steel.</p> <p>(c) A secondary means of escape consists of a marine evacuation system, a portable flexible ladder, a knotted manrope, or a similar device determined by the OCM to provide an equivalent or better means of escape.</p> <p>(d) Where a secondary means of escape is required, a primary means of escape may be substituted.</p>	<p>Delete ref to 46 CFR 108.151</p>	<p>The term <i>Means of Escape</i> referred to in 108.151 is meant for the exits from a particular area. The term as used in 149.691 and 692, refers to escape/evacuation from the platform to the water. These parts use the term exit to address specific area escape routes. Using the 108.151 cite is confusing and unnecessary</p>

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ropes, and other devices satisfactory to the Officer in Charge, Marine Inspection.			
<i>Not in current regulation.</i>	149.697(c). If the noise level throughout a space is determined to exceed 85 db(A), then ...	149.697(c). If the noise level throughout a space is determined to exceed 85 db(A) (12-hour TWA), then ...	It is not clear if the noted 85 db(A) is an instantaneous measured level or the 12-hour TWA noted in 149.697(b).
33 CFR 150.105 Operations Manual: General. (a) The licensee of a deepwater port may not operate the port unless the port has an Operations Manual that: (1) Is prepared in accordance with the Guidelines for Preparation of a Deepwater Port Operations Manual"; and, ...	§ 150.15(y) Environmental monitoring procedures. A program for monitoring the environmental effects of the port and its operations in order to maintain compliance with the environmental conditions in the license and applicable environmental laws. (1) Routine periodic re-examination of the physical, chemical, and biological factors contained in the port's environmental impact analysis and baseline study submitted with the license application. The examination process must include water and air monitoring in accordance with appropriate Federal and State statutes. (2) A more detailed study may be required in the wake of an event such as an inadvertent release.	(1) Every 10 years re-examination... unless facility is in an environmentally sensitive area in which case every 5 years a re-examination must be performed....	Need to define what periodic means. Is this every 2, 5, or 10 years? Frequency may depend on how environmentally sensitive location actually is.
33 CFR 150.503 Maintenance of equipment. (a) The licensee shall maintain each item of equipment required under this subchapter in operative condition or shall replace it with an item in good condition. (b) The licensee shall	150.505 When must the operator service and examine lifeboat and rescue boat release gear? (a) The operator must service lifeboat and rescue boat release gear at intervals recommended in the manufacturer's instructions under Sec. 150.502(a), or deepwater port's planned maintenance program under Sec. 150.502(b). (b) The operator must subject lifeboat and rescue boat release gear to a thorough examination at each inspection for certification by personnel trained in	(b) The operator must subject lifeboat and rescue boat release gear to a thorough examination at least every 30 months by personnel trained in examining the gear.	In part (b), there is no Certificate of inspection and therefore should not have a reference to the inspection for certification. COI inspection intervals used to be every 2 years, but have been moved to 5 years in duration now, with periodic annual inspections in between these inspections for Certification.

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<p>maintain each excess item of equipment required under this subchapter in operative condition or shall remove it from service.</p>	<p>examining the gear.</p>		
<p><u>33 CFR 150.711</u></p>	<p><b>150.815 How must casualties be reported?</b></p> <p>(a) Immediately after aiding the injured and stabilizing the situation, the owner, operator, or person in charge of a deepwater port must notify the nearest Marine Safety Office, Coast Guard Activity, or Coast Guard Group Office of each event on, or involving, the deepwater port that results in one or more of the following:</p> <ol style="list-style-type: none"> <li>(1) Loss of life;</li> <li>(2) An injury that requires professional medical treatment (treatment beyond first aid) and, if the person is engaged or employed on the deepwater port, that renders the individual unfit to perform his or her routine duties;</li> <li>(3) Impairment to the operation of any of the port's primary lifesaving or fire-fighting equipment; or</li> <li>(4) Property damage in excess of \$100,000, including damage resulting from a vessel or aircraft striking the port. This amount includes the cost of labor and material to restore all affected items, including, but not limited to, the port and the vessel or aircraft to their condition before the damage. This amount does not include the cost of salvage, cleaning, gas freeing, dry-docking, or demurrage of the port, vessel, or aircraft.</li> </ol> <p>(b) The notice under paragraph (a) of this section must identify the following:</p>	<p>Need to address whether the OCMI is required to conduct investigations of the reported casualty and if so, what procedures should be used.</p> <p>Need to better define whether there are any casualties which would require mandatory drug/alcohol testing since under 46 CFR 4.05-12, these tests are not mandatory</p>	<p>revised the description of personal injuries that require filing a casualty report to better align the requirements for deepwater ports with those for reporting marine casualties on vessels under 46 CFR 4.05-1.</p>



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	<p>(1) The deepwater port involved;            (2) The owner, operator, or person in charge of the port;            (3) The nature and circumstances of the event; and            (4) The nature and extent of the injury and damage resulting from the event.</p> <p><b>Sec. 150.900 What does this subpart do?</b></p> <p>(a) This subpart provides requirements for the establishment, restrictions, and location of safety zones, <b>no anchoring areas, and areas to be avoided</b> around deepwater ports.</p> <p>(b) Subpart D of this part, concerning vessel navigation and activities permitted and prohibited at deepwater ports, applies within safety zones, <b>no anchoring areas, and areas to be avoided</b> and their adjacent waters and supplements the International Regulations for Preventing Collisions at Sea.</p> <p>(c) Recommended shipping safety fairways, associated with deepwater ports, are described in part 166 of this chapter.</p>	<p>Need to add definition of Area to be Avoided and No Anchoring Area</p>	<p>Two new areas (area to be avoided, and no anchoring area) are now allowed to be requested/defined within the operations manual, but there are no specifics in the regulations which define the dimensions, the legal standing/enforcement of these two areas. What are definitions of area to be avoided and no anchoring areas and what is their legal standing ?</p>
<u>33 CFR 150 Appendix A</u>			